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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-219171.2 **DATE:** July 24, 1985
MATTER OF: Sabin Metal Corporation--Reconsideration

DIGEST:

Dismissal of protest for failure to file a copy of the protest with the contracting agency is affirmed where the agency was not furnished a copy until 8 working days after the protest was filed with GAO.

Sabin Metal Corporation (Sabin) requests reconsideration of our dismissal of its protest concerning invitation for bids No. DLA710-85-B-0002, issued by the Defense Logistics Agency (DLA). We dismissed the protest, filed on June 18, 1985, because Sabin failed to furnish a copy of it to the contracting agency within 1 day after the protest was filed with our Office, as required under section 21.1(d) of our Bid Protest Regulations, 4 C.F.R. Part 21 (1985). We affirm the dismissal.

Sabin contends that it basically met the 1-day notice requirement, and that we thus should reopen the protest, because in a June 14 telex it informed the contracting officer that it was filing a protest, and mailed a copy of the actual protest to the contracting officer on June 18, the same day it filed the protest with our Office.

We fail to see how Sabin's actions satisfied the notice requirement in section 21.1(d), which specifically states that "the contracting officer must receive a copy of the protest no later than 1 day after the protest is filed with the General Accounting Office." Sabin's June 14 notice of protest did not include any indication of the grounds of protest and thus could not enable the contracting officer to begin preparing his report on the matter. We have been advised by DLA, furthermore, that the copy of Sabin's protest allegedly sent to DLA on June 18 was not time-stamped as received by the contracting officer until June 28, 8 working days after the protest was filed in our Office. Thus, Sabin in fact did not satisfy the 1-day notice requirement.

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The basis for the 1-day notice requirement is found in the Competition in Contracting Act of 1984, 31 U.S.C.A. § 3553 (West Supp. 1985), which requires the contracting agency to file a written report with our Office within 25 working days following notice of the protest from our Office. Any delay in furnishing a copy of the protest to the contracting agency not only hampers the agency's ability to meet the 25-day statutory deadline, but also frustrates our efforts to consider all objections to agency procurement actions in as timely fashion as possible. See Storage Technology Corporation, B-218148.2, Mar. 11, 1985, 64 Comp. Gen. ___, 85-1 C.P.D. ¶ 300. We retain discretion to grant exceptions to this requirement, but we will do so only sparingly, under compelling circumstances. No such circumstances are apparent here.

The dismissal is affirmed.

for *Seymour Egan*
Harry R. Van Cleve
General Counsel

AG